

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

January 28, 1999 LB 24

the source of exploring her best interests, he discovered, my friend, Paul, that she was being bilked by her soon-to-be ex-husband, who was taking assets and hiding them. Betz v. Betz says he can't be her lawyer and sue the ex-husband, soon-to-be ex-husband, for what he's doing wrong. Betz v. Betz says, you came into that role as her guardian; you may not be her attorney filing actions on her behalf. She is indigent and there's no one to do this work unless a second lawyer can be assigned to meet the Betz v. Betz standard, and that's what LB 24 says. It says, when the pleadings or evidence in any action indicate that either spouse is mentally ill, a guardian ad litem or an attorney, or both, shall be appointed to represent their interests. "Such guardian's fee or attorney's fee, or both, shall be taxed as costs when allowed by the court". What it means is that this woman, who was mentally retarded and whose guardian ad litem discovered wrongdoing, needed to have a court-appointed lawyer to go out and protect her interests as her adversarial lawyer. And while it might be nice to be able to collapse those roles, we can't do it. This is the way to solve the problem. I ask for the advancement of LB 24.

SENATOR CROSBY: Any discussion on LB 24? Senator Kristensen.

SPEAKER KRISTENSEN: Thank you, Madam President, members of the Legislature, and I...I'm sorry, Senator Landis, I didn't get an opportunity to visit with you about this earlier this morning, although I don't plan to file any amendments at this point in time. And Senator Landis has fairly outlined the problem that is here and I think his case is a very narrow case that he's dealing with, if I understand the right, as I read the statute. There is a problem and that problem has perhaps manifested itself more out in...in the rural areas on the relationship, and particularly in divorce cases, when the court appoints someone to be the guardian ad litem for a child and who pays for that. Obviously, the county is responsible for the payment of that. The impact of this ruling has been that now courts are hesitant, do I appoint a lawyer to represent the child and have them call witnesses and cross-examine the parties and be an advocate for the child, and that means at some point in time the big decision is where's that child...which party is the child going to be awarded to. And so the, you know, you can only dance around the issue so long. Somewhere you have to decide I want to go with